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Dated: February 7, 2007

Signature


(Jeanne M. Brashear)

Docket No.: 19036/40320

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Nobutaka Wakamiya et al.

Application No.: 10/500,774

Confirmation No.: 5088

Filed: February 7, 2005

Art Unit: 1648

For: ANTI-HIV AGENT

Examiner: Louise Humphrey, Ph.D.

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the restriction requirement set forth in the Office Action mailed November 15, 2006. This response is timely filed in view of the petition for a two-month extension of time along with the requisite fee submitted herewith.

Restriction Requirement

In the restriction requirement, the examiner required the election of one of the allegedly patentably distinct inventions:

Group I: Claims 1-17 and 38, drawn to the technical feature of an anti-HIV agent, which comprises a mannose binding protein (MBP) as an active component;

Group II: Claims 18 and 22-37, drawn to the technical feature of a method for evaluating an anti-HIV activity of MBP, comprising culturing HIV-infected cells and determining p24 protein in the culture supernatant;

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Group III: Claims 19-37, drawn to the technical feature of a method for evaluating an anti-HIV activity of MBP, comprising culturing two mixed systems and determining p24 protein in the culture supernatant; and;

Group IV: Claims 39 and 40, drawn to the technical feature of a method of using an anti-HIV agent containing MBP for an HIV-infected individual.

Election

In response to the restriction requirement, Applicant hereby elects Group I (claims 1-17 and 38), and Species B (claim 6, drawn to an anti-HIV agent MBP genetically secreted from an animal cell) for continued examination. At least claims 1-4, 6-17 and 38 read on the elected species. Additionally, at least claims 1-4, 8-17 and 38 appear to be generic.

Applicants' election is made without prejudice. As noted by the examiner, upon the allowance of a generic claim, applicants will be entitled to consideration of claims to not more than a reasonable number of species in addition to the elected species, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.146.

The examiner has required restriction between product and process claims. As stated in the Office Action, where the Applicants elect claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of M.P.E.P. § 821.04.

Dated: February 7, 2007

Respectfully submitted,

By Jeanne M. Brashear

Jeanne M. Brashear

Registration No.: 56,301

MARSHALL GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Agent for Applicant